

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:12-cv-499
	§	
Texas Instruments, Inc.	§	
	§	
Defendant	§	

Blue Spike, LLC	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:12-cv-00598
	§	
Soundmouse, Ltd.	§	
	§	
Defendant.	§	

**SOUNDMOUSE, LTD.'S SUR-REPLY IN SUPPORT OF ITS MOTION TO DISMISS
PLAINTIFF'S INDIRECT INFRINGEMENT AND WILLFUL INFRINGEMENT
CLAIMS FED. R. CIV. P. 12(B)(6) (DOCKET #1111) AND RESPONSE TO
PLAINTIFF'S NOTICE OF MOOTNESS**

Soundmouse, Ltd. (“Soundmouse”) hereby files this brief sur-reply in support of its pending motion. In Blue Spike, LLC’s (“Blue Spike”) sur-reply to the Court (docket no. 1127), Blue Spike makes several allegations with respect to Soundmouse’s relationship with Adelphoi, Ltd. (“Adelphoi”). *See* Blue Spike’s Sur-Reply, pp. 3-4. Counsel for Soundmouse has further investigated matters and would like to clarify any issues for the Court.

Adelphoi, along with two other parties, owns Soundmouse. Adelphoi is a privately held company, and given its ownership of stock, Adelphoi would be considered, most likely, the parent corporation for Soundmouse. Additionally, Adelphoi did use an attorney at the law firm

of Meyertons Hood Kivlin Kowert & Goetzel to prosecute certain patents for Adelphoi. However, we have not discovered any evidence that the attorney who worked with Adelphoi had any communications with Soundmouse. Regardless, the fact that the same law firm that is representing Soundmouse in this litigation also prosecuted patents on behalf of Adelphoi in no way demonstrates or implies that Soundmouse knew about the patent in suit prior to the filing of the Complaint. Furthermore, there is no evidence or even a suggestion that anyone at Adelphoi alerted Soundmouse to the patent in suit prior to the filing of the Complaint.

Therefore, the analysis set forth in Soundmouse's pleadings to this Court on these issues continues to apply. Soundmouse and its attorneys apologize to the Court for the miscommunications regarding Adelphoi, and ask that the Court consider the corrected information provided herein when rendering its decision.

Respectfully submitted,

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ATTORNEYS FOR SOUNDMOUSE, LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3) on this 24th day of January 2014.

/s/Ryan T. Beard

Ryan T. Beard